

Docket No.: 086612-0031
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Felding et al.

Application No.: 10/599,121

Confirmation No.: 4503

Filed: June 1, 2007

Art Unit: 1614

For: DIPHENYL OX-INDOL-2-ONE
COMPOUNDS AND THEIR USE IN THE
TREATMENT OF CANCER

Examiner: James D. Anderson

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR §§ 1.97 and 1.98, Applicant submits herewith patents, publications and/or other information (listed below and/or on the attached Form SB/08) that may be material to the examination of the captioned application, and in respect of which there may be a duty of disclosure as set forth in 37 CFR § 1.56, for consideration and to be made of record in the captioned application by the U.S. Patent and Trademark Office.

1. ☒ In accordance with 37 CFR 1.98, accompanying this Information Disclosure Statement are:

1a. ☒ copies of: (i) each foreign patent listed on the attached Form SB/08; (ii) each publication listed on the attached Form SB/08, or that portion which caused it to be listed, *other than* U.S. patents and U.S. patent application publications; (iii) for each pending unpublished U.S. application, a copy of the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and (iv) other

information, or that portion which caused it to be listed herein or on the attached Form SB/08 (37 CFR § 1.98(a)(2)); and/or

1b. ☐ a concise explanation of relevancy, or an English language translation, of non-English language publications listed on the attached Form SB/08 (37 CFR § 1.98(a)(3)(i) & (ii)).

2. ☐ Copies of the documents listed on the attached Form SB/08 are not enclosed herewith, because the information was previously submitted to, or cited by, the U.S. Patent and Trademark Office in application Serial No. _____, of which the captioned application claims benefit under 35 U.S.C. § 120, and the Information Disclosure Statements submitted in that parent application complied with paragraphs (a) through (c) of 37 CFR § 1.98 (37 CFR § 1.98(d)).

3. ☐ This Information Disclosure Statement is filed under 37 CFR § 1.97(b):

3a. ☐ within three months of the filing date of a national application other than a continued prosecution application under 37 CFR § 1.53(d);

3b. ☐ within three months of the entry of the national stage as set forth in 37 CFR § 1.491 in an international application;

3c. ☐ before the mailing of a first Office Action on the merits; *or*

3d. ☐ before the mailing of a first Office Action, and after the filing of a Request for Continued Examination under 37 CFR § 1.114. **Accordingly, no certification or fee is required.**

4. ☒ This Information Disclosure Statement is filed under CFR § 1.97(c) after the period specified by CFR § 1.97(b), but before the mailing date of any of a final Office Action under 37 CFR § 1.113, a notice of allowance under 37 CFR § 1.311, or an action that otherwise closes prosecution in the application, and is accompanied by one of:

- 4a. ☐ the statement specified in 37 CFR § 1.97(e); *or*
- 4b. ☒ the fee set forth in 37 CFR § 1.17(p).
5. ☐ This Information Disclosure Statement is filed under 37 CFR § 1.97(d) after the period specified by CFR § 1.97(c), but on or before payment of the issue fee, and is accompanied by both of:
- 5a. ☐ the statement specified in 37 CFR § 1.97(e); *and*
- 5b. ☐ the fee set forth in 37 CFR § 1.17(p).
6. ☐ Certification Statement (*applicable if Item 4a or 5a is checked*)
- 6a. ☐ In accordance with 37 CFR § 1.97(e)(1), the undersigned hereby states that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement; *or*
- 6b. ☐ In accordance with 37 CFR § 1.97(e)(2), the undersigned hereby states that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making a reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.
7. ☒ Fee Statement and/or Authorization (*applicable if Item 4b or 5b is checked*)
- 7a. ☐ The fee set forth in 37 CFR § 1.17(p) is:

☐ enclosed; *or*

☒ to be charged to McDermott Will & Emery LLP Deposit Account No. 50-0417 (**Order No.: 086612-0031**).

8. ☐ Additional materials (*if applicable*)

8a. ☐ a continuation application under 37 CFR § 1.53(b)(1) is filed concurrently herewith;

8b. ☐ a Request for Continued Examination under 37 CFR § 1.114 is filed concurrently herewith;

or

8c. ☐ a Petition to Withdraw from issue under 37 CFR § 1.313(c)(2).

As specified in 37 CFR § 1.97(g), the filing of this Information Disclosure Statement shall not be construed as a representation that a search has been made.

The filing of this Information Disclosure Statement shall not be construed as a representation that no other material information as defined in 37 CFR § 1.56(a) exists.

As specified in 37 CFR § 1.97(h), the filing of this Information Disclosure Statement shall not be construed to be an admission that any information cited herein is, or is considered to be, material to patentability as defined in 37 CFR § 1.56(b).

Moreover, while the patents, publications and/or other information disclosed in this Information Disclosure Statement may be “material” pursuant to 37 CFR § 1.56, the Disclosure is not intended to constitute an admission that any patents, publications and/or other information included or referred to herein is “prior art” to the captioned application unless specifically designated as such.

It is respectfully submitted that this Information Disclosure Statement is in compliance with 37 CFR § 1.98 and MPEP § 609. Accordingly, consideration of the foregoing and prompt return of a copy of the enclosed Form SB/08 with the Examiner’s initials in the left column in accordance with MPEP § 609 are respectfully requested.

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No fees are believed due in connection with the Information Disclosure Statement. However, the Commissioner is authorized to charge any additional required fees, or credit any overpayment, to McDermott Will & Emery LLP Deposit Account No. 50-0417 (**Order No. 086016-0055**).

Respectfully submitted,

Date: September 7, 2010



Paul M. Zagar, M.D.
Reg. No. 52,392

McDermott Will & Emery LLP
600 13th Street NW
Washington, DC 20005-3096
Customer No. 20277
Tel: 212.547.5400
Fax: 202.756.8087